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09/982,507	10/17/2001	David W. Presby	PY1104-CPLR	7207

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EXAMINER

HEWITT, JAMES M

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/982,507	PRESBY, DAVID W.	
	Examiner	Art Unit	
	James M Hewitt	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 07 April 2003 .

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-52 is/are pending in the application.
4a) Of the above claim(s) 26-52 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-11 and 16-24 is/are rejected.

7) Claim(s) 12-15 and 25 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Species I ("group I") in Paper No. 6 is acknowledged. The traversal is on the ground(s) that as a newly added claim is generic to the two species, all of the claims should be examined. First, new claim 50 is not generic as it is clearly drawn to Species II only. Species I is never described to include a coupling member having an arcuate surface that is defined by an arc of variable but predetermined number of degrees, which number of degrees is determinable as a function of the diameter of conduit to be coupled. And second, even if claim 50 were generic, the mere presence of a generic claim in an application does not necessitate examination of all species, and thus all claims. If the generic claim is found to be allowable, then the claims drawn to the non-elected species would be fully examined.

The requirement is still deemed proper and is therefore made FINAL.

Claims 26-52 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The disclosure is objected to because of the following informalities:

On page 6 line 22, it is apparent that "6B" should be "6G".

Appropriate correction is required.

Claim Objections

Claims 1-3, 9, 16 and 22 (as well as their dependents: claims 4-8, 10-15, 17-21 and 23-25) are objected to because of the following informalities:

In claim 1 line 8, "said" should be inserted before "coupler".

In claim 2 line 2, "the walls" should be replaced with "walls".

In claim 2 line 3, "at least one corrugation" should be replaced with "respective corrugations".

In claim 3 line 3, "at least one corrugation" should be replaced with "respective corrugations".

In claim 9 line 3, "coupling member" should be "coupling members".

In claim 9 line 3, "compressable" should be replaced with "compressible".

In claim 12 line 2, "the wall" should replaced with "a wall".

In claim 13 line 2, "the wall" should replaced with "a wall".

In claim 16 line 8, "the wall" should be replaced with "a wall".

In claim 16 line 9, "the wall" should be replaced with "a wall".

In claim 16 lines 10-11, "at least one corrugation" should be replaced with "respective corrugations".

In claim 16 line 11, the phrase "of corrugated conduit if corrugated conduit is being connected" should be replaced with "of the corrugated conduit being connected".

In claim 22 line 3, "coupling member" should be "coupling members".

In claim 22 line 3, "compressable" should be replaced with "compressible".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 16-18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Pate et al (US 4,440,425).

With respect to claim 1 and with particular reference to figures 6 and 7, Pate et al discloses a coupler (81) for coupling conduit (10) comprising: a first arcuate coupling member (84) and a second arcuate coupling member (86) hingedly attached each to one end of the other at a hinge region (88); a first cooperating attaching component (94) attached to an outer end of the first coupling member opposite said hinge region; and a

second cooperating attaching component (90) attached to an outer end of said second coupling member opposite said hinge region; and wherein said coupler is wrappable around adjacent ends of aligned conduit and said first and said second components are attachable each to the other, thereby closing said coupler and securing the adjacent ends of aligned conduit together in fluid flow communication.

With respect to claim 2, wherein the first coupling member comprises a plurality of corrugations in walls of the first coupling member, said corrugations located and spaced to fit within and mate or interfit with respective corrugations of corrugated conduit. Refer to column 9 lines 41-46 and column 10 lines 53-59.

With respect to claim 3, wherein the second coupling member comprises a plurality of corrugations in walls of the second coupling member, said corrugations located and spaced to fit within and mate or interfit with respective corrugations of corrugated conduit. Refer to column 9 lines 41-46 and column 10 lines 53-59.

With respect to claim 4, wherein the first component comprises a plurality of ridges (see figure 6).

With respect to claim 5, wherein the second component comprises a plurality of detents which cooperate with the ridges of the first component to close and secure the coupler in a closed position.

With respect to claim 8, wherein the inside diameter of said couplet is about equal to or slightly greater than the outside diameter of the conduit being coupled.

With respect to claim 16, and with particular reference to figures 6 and 7, Pate et al discloses a coupler (81) for coupling conduit (10) comprising: a first arcuate coupling

member (84) and a second arcuate coupling member (86) hingedly attached each to one end of the other at a hinge region (88); a first cooperating attaching component (94) attached to an outer end of the first coupling member opposite said hinge region; and a second cooperating attaching component (90) attached to an outer end of said second coupling member opposite said hinge region; a plurality of corrugations in a wall of said first coupling member, and a plurality of corrugations in a wall of said second coupling member, said corrugations of said coupling members located and spaced to fit within and mate or interfit with respective corrugations of the corrugated conduit being connected; and wherein said coupler is wrappable around adjacent ends of aligned conduit and said first and said second components are attachable each to the other, thereby closing said coupler and securing the adjacent ends of aligned conduit together in fluid flow communication.

With respect to claim 17, wherein the first component comprises a plurality of ridges (see figure 6).

With respect to claim 18, wherein the second component comprises a plurality of detents which cooperate with the ridges of the first component to close and secure the coupler in a closed position.

With respect to claim 21, wherein the inside diameter of said coupler is about equal to or slightly greater than the outside diameter of the conduit being coupled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 9, 16 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hattori et al (US 4,871,198) in view of Pate et al (US 4,440,425).

With respect to claims 1 and 16 and with particular reference to figure 2, Hattori et al discloses a coupler for coupling conduit (2, 3) comprising: a first arcuate coupling member (one half of 7) and a second arcuate coupling member (other half of 7) attached each to one end of the other via tie bolts (6); a plurality of corrugations in a wall of said first coupling member, and a plurality of corrugations in a wall of said second coupling member, said corrugations of said coupling members located and spaced to fit within and mate or interfit with respective corrugations of the corrugated conduit being connected (see figure 2); and wherein said coupler is wrappable around adjacent ends of aligned conduit and said first and said second components are attachable each to the other, thereby closing said coupler and securing the adjacent ends of aligned conduit together in fluid flow communication. Hattori et al differs from the claimed invention in the manner in which each coupling half is attached to the other. Hattori et al relies on tie bolts for a detachable connection. Pate et al teaches a coupler for corrugated conduit comprising: a first arcuate coupling member (84) and a second arcuate coupling member (86) hingedly attached each to one end of the other at a hinge

region (88); a first cooperating attaching component (94) attached to an outer end of the first coupling member opposite said hinge region; and a second cooperating attaching component (90) attached to an outer end of said second coupling member opposite said hinge region. In view of Pate's teaching, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hattori to include a hinged connection instead of a bolted one in order to allow faster attachment and detachment of the coupler.

With respect to claims 9 and 22, Hattori discloses an elastic material (4) disposed on the interior surface of each said first and second coupling members, said elastic material being compressible against the outer surface of the conduits being coupled, to enhance the seal made by the coupler.

Claims 6-7 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pate et al (US 4,440,425).

Pate is silent as to whether his first and second cooperating attaching components are irreversibly attachable or detachable from one another once attached. Nevertheless, it would have been an obvious matter of design choice to employ either irreversibly attachable components or readily detachable components in Pate depending on the application for which Pate's coupling is used.

Further, the Examiner takes official notice of the common and widespread use of attaching components of the type disclosed by Pate that are irreversibly attachable, and attaching components of the type disclosed by Pate that are readily detachable.

Claims 10 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pate et al (4,440,425).

The Examiner takes official notice of the use of a bump or ridge of the type claimed in claims 10 and 23 for regulating the amount of flex permitted of an attaching component. And the Examiner considers it obvious to one having ordinary skill in the art at the time the invention was made to modify Pate's first attaching component with a bump or ridge in order to prevent the component from detaching from the first coupling member.

Claims 11 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pate et al (4,440,425).

The Examiner takes official notice of the use of a bump or ridge of the type claimed in claims 11 and 24 for regulating the amount of flex permitted at a hinge. And the Examiner considers it obvious to one having ordinary skill in the art at the time the invention was made to modify Pate's hinge with a bump or ridge in order to prevent the hinge from being bent to the point that it snaps or breaks or to reduce the stress concentration at the hinge that will arise from repeated use thereby increasing the longevity of the hinge and thus the coupler itself.

Allowable Subject Matter

Claims 12-15 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Note that the allowability of claims 12-15 and 25 are contingent on overcoming the above objections to claims 1-3 and 16 respectively.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Meyers, Crumpler, Jr. et al, Brannon, Young et al, Geldwerth, Hulsey, Sills et al, Sixt, Sinnott, Borsh et al, Keeney et al, Kaminski et al and JP 1-316593 all constitute prior art device considered by the Examiner to be relevant to the claimed invention(s).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hewitt whose telephone number is 703-305-0552. The examiner can normally be reached on M-F, 930am-600pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 703-308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

jmh
jmh
June 29, 2003

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